

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Esme Trontz	Team: Squad #02	CCRB Case #: 202002972	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 04/28/2020 6:00 PM	Location of Incident: Saratoga Avenue and Newport Street	18 Mo. SOL 5/4/2022	Precinct: 73		
Date/Time CV Reported Wed, 04/29/2020 2:03 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 04/29/2020 2:03 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jeffrey Goris	17322	954887	INT CIS
2. SGT Arthur Mccarthy	04612	949289	INT CIS
3. LT Christophe Siani	00000	919712	073 PCT
4. POM Dwane Edwards	13814	951604	073 DET
5. POF Lashonda Porterfield	02813	963699	073 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Christophe Musa	03353	952040	073 PCT
2. DT3 Joseph Mcevoy	07393	944790	GVSD Z1
3. POM Louis Aponte	07454	957850	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.LT Christophe Siani	Abuse: Lieutenant Christophe Siani stopped § 87(2)(b)	
B.SGT Arthur Mccarthy	Abuse: Sergeant Arthur Mccarthy stopped an individual.	
C.SGT Arthur Mccarthy	Abuse: Sergeant Arthur Mccarthy frisked an individual.	
D.LT Christophe Siani	Abuse: Lieutenant Christophe Siani frisked § 87(2)(b)	
E.LT Christophe Siani	Discourtesy: Lieutenant Christophe Siani spoke discourteously to § 87(2)(b)	
F.LT Christophe Siani	Abuse: Lieutenant Christophe Siani threatened to arrest § 87(2)(b)	
G.LT Christophe Siani	Abuse: Lieutenant Christophe Siani threatened § 87(2)(b) with the use of force.	
H.POM Dwane Edwards	Abuse: Police Officer Dwane Edwards frisked § 87(2)(b)	
I.SGT Arthur Mccarthy	Abuse: Sergeant Arthur Mccarthy frisked § 87(2)(b)	
J.SGT Arthur Mccarthy	Abuse: Sergeant Arthur Mccarthy searched § 87(2)(b)	
K.LT Christophe Siani	Abuse: Lieutenant Christophe Siani searched § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
L.LT Christophe Siani	Off. Language: Lieutenant Christophe Siani made remarks to § 87(2)(b) based upon the perceived sexual orientation of § 87(2)(b)	
M.POM Jeffrey Goris	Abuse: Police Officer Jeffrey Goris threatened § 87(2)(b) with the use of force.	
N.POM Jeffrey Goris	Discourtesy: Police Officer Jeffrey Goris spoke discourteously to § 87(2)(b)	
O.LT Christophe Siani	Abuse: Lieutenant Christophe Siani failed to provide § 87(2)(b) with a business card.	
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		

Case Summary

§ 87(2)(b) filed this complaint with the CCRB on April 29, 2020 via the call processing system.

On April 28, 2020, just before 6:00 p.m., § 87(2)(b) and a few unidentified individuals he knew from the neighborhood were standing outside of § 87(2)(b) (on the corner of Newport Street) in Brooklyn. Lieutenant Christopher Siani of the 73rd Precinct arrived in a sedan with Police Officer Lashonda Porterfield of the 73rd Precinct, Police Officer Dwane Edwards of the 73rd Precinct, and Sergeant Arthur McCarthy of the Criminal Intelligence Section, who was assigned as the 73rd Precinct Field Intelligence Officer (FIO). Lieutenant Siani told § 87(2)(b) to take his hands out of his pockets, then grabbed his arms from behind him (**Allegation A: Abuse of Authority- Stop**, § 87(2)(g)). Sergeant McCarthy allegedly frisked one of the unidentified individuals (**Allegation B: Abuse of Authority- Stop**, § 87(2)(g)) and **Allegation C: Abuse of Authority- Frisk**, § 87(2)(g)). Lieutenant Siani briefly frisked the front of § 87(2)(b) jacket (**Allegation D: Abuse of Authority- Frisk**, § 87(2)(g)). As the officers frisked and searched him, § 87(2)(b) started yelling, and Lieutenant Siani responded, “Why are you fucking raising your voice?” and, “You’re starting to act like an asshole” (**Allegation E: Discourtesy- Word**, § 87(2)(g)). Lieutenant Siani allegedly said, “Shut the fuck up before we lock you up” (**within Allegation E, and Allegation F, Abuse of Authority- Threat of Arrest**, § 87(2)(g)) and, “If you move, we’re gonna beat the shit out of you” (**within Allegation E and Allegation G, Abuse of Authority- Threat of Force**, § 87(2)(g)). Police Officer Edwards briefly frisked the front of § 87(2)(b) jacket (**Allegation H: Abuse of Authority- Frisk**, § 87(2)(g)). Sergeant McCarthy frisked § 87(2)(b) jacket and went inside his jacket and pants pockets (**Allegation I: Abuse of Authority- Frisk**, § 87(2)(g)) and **Allegations J and K: Abuse of Authority- Search of Person**, § 87(2)(g)). The officers ultimately recovered two cell phones and a digital scale in § 87(2)(b) pockets. Lieutenant Siani released § 87(2)(b) who then started repeatedly yelling at the officers while backing up from them, “I’m big crip, I’m gonna boom you,” among similar statements.

At this time, other plainclothes officers arrived in unmarked vehicles, including Police Officer Jeffrey Goris of the Criminal Intelligence Section. After § 87(2)(b) yelled, “Suck my dick,” several times, Lieutenant Siani said to his fellow officers, “He wants some dude to suck his dick, I’m not interested, but if there’s another dude here that wants to, feel free” (**Allegation L: Offensive Language- Sexual Orientation**, § 87(2)(g)). Police Officer Goris pointed his taser at § 87(2)(b) for approximately three seconds and said, “Back the fuck up. Back the fuck up” (**Allegation M: Abuse of Authority- Threat of Force**, § 87(2)(g)) and **Allegation N: Discourtesy- Word**, § 87(2)(g)). Lieutenant Siani allegedly did not offer § 87(2)(b) a business card after the interaction or ensure that the officers under his supervision did so (**Allegation O: Abuse of Authority- Failure to Provide Business Card**, § 87(2)(g)). No one was arrested or issued summonses during this incident.

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

A video of the incident posted on the § 87(2)(b) website received 383,277 views as of May 11, 2020, and thus the case was placed on the agency’s sensitive case list (Board Review #01).

Cell phone video from an unidentified individual, which was posted on the § 87(2)(b) website, is attached to IA #21 and summarized in IA #79 (Board Review #02, #03). BWC footage from Lieutenant Siani, which is attached in IA #139 and summarized in IA #183 (Board Review #04, #05), from Police Officer Edwards, which is attached in IA #140 and summarized in IA #183 (Board Review #06, #05), and from Police Officer Porterfield, which is attached in IA #143 and summarized in IA #183 (Board Review #24, #05), were also obtained for this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Lieutenant Christopher Siani stopped § 87(2)(b)

Allegation (D) Abuse of Authority: Lieutenant Christopher Siani frisked § 87(2)(b)

Allegation (H) Abuse of Authority: Police Officer Dwane Edwards frisked § 87(2)(b)

§ 87(2)(b) was interviewed via telephone on May 11, 2020 (Board Review #07). Police Officer Goris was interviewed by the CCRB on October 16, 2020. Lieutenant Siani was interviewed by the CCRB on November 10, 2020. Sergeant McCarthy was interviewed by the CCRB on December 2, 2020. Police Officer Edwards was interviewed by the CCRB on February 11, 2021. Police Officer Porterfield was interviewed by the CCRB on March 5, 2021.

It is undisputed that Lieutenant Siani and his partners, Sergeant McCarthy and Police Officers Edwards and Porterfield, stopped § 87(2)(b). After holding onto § 87(2)(b) arms, Lieutenant Siani briefly frisked the front of § 87(2)(b) jacket. Then, Police Officer Edwards briefly frisked § 87(2)(b) jacket pockets.

All the officers except for Police Officer Edwards testified that they knew prior to the incident that Crip gang members often hung out at Saratoga Avenue and Newport Street. Police Officer Edwards did not remember having knowledge of gang activity at the time of the incident. Neither Police Officer Edwards nor Porterfield could describe or remember any conversation the officers had in their vehicle regarding the basis for the stop; Police Officer Porterfield did not know why the individuals were stopped until later in the incident, when she saw a bulge on § 87(2)(b) person, and Police Officer Edwards thought the individuals were being stopped for drinking in public. Sergeant McCarthy, in his role as FIO, was most familiar with the gang's alleged activities at that location, which included recent drug and gun arrests. Lieutenant Siani believed that Sergeant McCarthy stated that he recognized one or more of the individuals on the corner, but he did not remember Sergeant McCarthy stating anything more specific. Sergeant McCarthy testified that he recognized § 87(2)(b) but his initial account of the incident was skewed in that he believed he arrived in the second police vehicle and thus was uninvolved in the original stop; when his memory was refreshed by BWC footage, he still could not remember any conversation he had with his partners prior to the stop.

Before interacting physically with § 87(2)(b) Lieutenant Siani observed that his pockets had a “bulk” to them. He did not know whether the weight was merely caused by § 87(2)(b) hands pushing down on the pockets nor whether his pockets showed the outline of a gun. He could not determine a distinctive shape in the pockets and could not recall whether it was round or had edges. The pockets' apparent heaviness was the only factor that made him suspicious § 87(2)(b) could have had a weapon. Both Police Officers Edwards and Porterfield noticed the bulge, but neither could describe the bulge in detail other than that it had weight, and Police Officer Porterfield saw that it appeared bigger than a cell phone. Neither Sergeant McCarthy nor Police Officer Goris observed a bulge on § 87(2)(b).

The portion of Lieutenant Siani's BWC footage from 30 to 32 seconds shows § 87(2)(b) hands resting inside the front pockets of his puffy coat (Board Review #04). The footage does not appear to show an outline of any object inside § 87(2)(b) pockets, and the weight of the pockets does not appear abnormal.

According to *People v. De Bour*, 40 N.Y.2d 210 [1976], an officer may forcibly stop and detain a person if the officer has reasonable suspicion that the person has committed, is committing or is about to commit a felony or misdemeanor (Board Review #08). An officer may frisk the individual if the officer reasonably suspects that he is in danger of physical injury by virtue of the detainee being armed. *Patrol Guide Procedure 212-11* permits an officer to enter an individual's pockets "to remove an object that the member felt during a frisk and reasonably suspects is a weapon or dangerous instrument" (Board Review #09).

No officer witnessed or articulated a reason to believe that § 87(2)(b) was engaged in any specific criminal activity during or before the incident. Neither Lieutenant Siani nor Police Officer Edwards could describe the appearance of the bulges in § 87(2)(b) pockets beyond their weight. The "weight" of § 87(2)(b) pockets, and the vague information he allegedly received from Sergeant McCarthy, were the only factors Lieutenant Siani could cite to justify stopping and frisking § 87(2)(b). Police Officer Edwards cited even fewer specific details that suggested he had a bulge. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Abuse of Authority: Sergeant Arthur McCarthy stopped an individual.
Allegation (C) Abuse of Authority: Sergeant Arthur McCarthy frisked an individual.

Sergeant McCarthy testified that, though the gang members who hung out at that corner "always" stationed someone there carrying a firearm, his level of suspicion that any of the individuals other than § 87(2)(b) were armed was not high enough to engage with them. He initially did not recall frisking any other individuals on scene.

Neither Lieutenant Siani nor Police Officer Porterfield could recall whether anyone on scene had been drinking or had cups or bottles. To Police Officer Porterfield's recollection, the only reason the individuals were stopped was because § 87(2)(b) jacket had a bulge, which she did not see until she was out of her vehicle. Police Officer Edwards' memo book notes that the stop of § 87(2)(b) included a "Drinking Discon 91 (Non-crime corrected)," though he could not cite any specific evidence (such as the presence of cups or bottles of alcohol, or the individuals' behavior), that suggested to him the individuals were drinking (Board Review #10).

At one second into Police Officer Edwards' BWC footage, Sergeant McCarthy is seen at the far right of the screen extending his arms toward an unknown black male individual in a blue cap who is mostly off-screen (Board Review #06). Seemingly in response to Sergeant McCarthy's motion, the individual raises his arms outward, and a small, clear plastic cup that appears empty is seen in his right hand.

After viewing the BWC, Sergeant McCarthy identified his action as "engaging with the individual who appears to be holding a cup of alcohol on a public sidewalk." He could not tell whether he was frisking the individual but thought he may have been. If he had frisked him, the reason would have been that he was drinking on a public sidewalk and was in front of the known Crip building. There

were no other factors that led Sergeant McCarthy to frisk the individual. Police Officer Edwards stated that upon watching this portion of his BWC footage, he believed Sergeant McCarthy frisked the individual.

Though the individual Sergeant McCarthy interacted with was never identified, the BWC footage coupled with the officers' testimonies strongly suggest that Sergeant McCarthy indeed stopped and frisked the individual. Sergeant McCarthy's arms appear in the video to reach toward the individual's waistband, the individual raises his arms in a fashion expected of someone being frisked, and Sergeant McCarthy believed he indeed may have frisked the individual, further providing reasons apparently justifying that possible frisk. Further, Police Officer Edwards too believed that Sergeant McCarthy frisked the individual.

People v. De Bour, 40 N.Y.2d 210 [1976] allows an officer to forcibly stop and detain a person if the officer has reasonable suspicion that the person has committed, is committing or is about to commit a felony or misdemeanor (Board Review #08). An officer may frisk the individual if the officer reasonably suspects that he is in danger of physical injury by virtue of the detainee being armed.

NYC Administrative Code 10-125 states that consumption of an alcoholic beverage (any liquid intended for human consumption containing more than one-half of one percent (.005) of alcohol by volume) is prohibited in a public setting, such as a sidewalk (Board Review #11). People v. Figueroa, 36 Misc. 3d 605 [2012], which involves an officer stopping an individual for allegedly drinking beer out of a plastic cup on a public sidewalk, addresses the level of suspicion an officer must have to stop someone for allegedly drinking in public (Board Review #12). The court found that the officer's claim that he saw and smelled what he believed to be beer in the cup was not enough reason for him to believe that the individual was indeed drinking alcohol; the beer could have been non-alcoholic.

Sergeant McCarthy did not mention alcohol as a reason he approached the group of individuals until he saw the BWC footage suggesting that he stopped and frisked an individual holding an empty plastic cup. His shifting testimony then suggests the public consumption of alcohol was not actually part of the reason he stopped the individual, but rather was a reason he stated after the fact. Police Officer Porterfield's belief that the alleged public drinking did not play into the stop further supports this analysis. § 87(2)(g)

§ 87(2)(g)

Allegation (E) Discourtesy: Lieutenant Christopher Siani spoke discourteously to § 87(2)(b)

Allegation (F) Abuse of Authority: Lieutenant Christopher Siani threatened to arrest § 87(2)(b)

Allegation (G) Abuse of Authority: Lieutenant Christopher Siani threatened § 87(2)(b)
with the use of force.

Allegation (L) Offensive Language: Lieutenant Christopher Siani made remarks to § 87(2)(b)
based upon the perceived sexual orientation of § 87(2)(b)

It is undisputed that Lieutenant Siani used the word “fuck,” and “asshole,” toward § 87(2)(b) while holding onto his arms. A few minutes later, after § 87(2)(b) yelled, “suck my dick,” several times, Lieutenant Siani turned to his fellow officers and yelled, “He wants some dude to suck his dick, I’m not interested, but if there’s another dude here that wants to, feel free.”

§ 87(2)(b) testified that as Lieutenant Siani held his arms, he said, “Shut the fuck up before we lock you up,” and, “If you move, we’re gonna beat the shit out of you.”

Lieutenant Siani and Police Officers Edwards and Porterfield did not recall, and Sergeant McCarthy and Police Officer Goris did not hear, any officer telling § 87(2)(b) he could be arrested or summonsed. Lieutenant Siani denied saying, “If you move, we’re gonna beat the shit out of you,” and did not recall hearing any other officer make this statement. He did not recall whether he or any other officer said, “Shut the fuck up before we lock you up.” Regarding the words “fuck,” and “asshole,” Lieutenant Siani stated that the reason he used these profanities was because he was matching § 87(2)(b) language. Likewise, he testified that his comment regarding § 87(2)(b) statements to “suck his dick” were merely responding to that repeated statement.

At 1:08 into Lieutenant Siani’s BWC footage, he is heard saying, “Relax... Why are you fucking raising your voice?,” as he stands directly behind § 87(2)(b) (Board Review #04). As § 87(2)(b) starts to yell, Lieutenant Siani says, “I’ve been really nice, and you’re starting to act like an asshole.” He is not heard saying, “Shut the fuck up before we lock you up,” and, “If you move, we’re gonna beat the shit out of you,” or anything similar. Later, after § 87(2)(b) is released and begins making threats, Lieutenant Siani says, “This guy’s a clown,” and, “He wants some dude to suck his dick, I’m not interested, but if there’s another dude here that wants to, feel free.”

No BWC footage appears to depict Lieutenant Siani threatening to “lock up” or “beat the shit out of” § 87(2)(b) § 87(2)(g)

According to DCT Case No. 2015-15012, officers are to behave professionally and respectfully toward members of the public and avoid the use of discourteous language; however, officers’ use of profanities during stressful street encounters do not constitute misconduct (Board Review #13). Officers may not use profanities when it “[serves] no legitimate purpose but to belittle” a civilian. Patrol Guide Procedure 203-10 states that officers may not make discourteous or disrespectful remarks regarding a person’s sexual orientation (Board Review #14).

§ 87(2)(g)

calling § 87(2)(b) an “asshole” § 87(2)(g) Likewise, Lieutenant Siani’s decision to yell a statement such as “He wants some dude to suck his dick, I’m not interested, but if there’s another dude here that wants to, feel free,” after he made it clear that the interaction was over, § 87(2)(g)

Allegation (I) Abuse of Authority: Sergeant Arthur McCarthy frisked § 87(2)(b)

Allegation (J) Abuse of Authority: Sergeant Arthur McCarthy searched § 87(2)(b)

Allegation (K) Abuse of Authority: Lieutenant Christopher Siani searched § 87(2)(b)

It is undisputed that Sergeant McCarthy frisked § 87(2)(b)

Sergeant McCarthy testified that he frisked § 87(2)(b) because he was making verbal threats and was in front of a gang house that was known to frequently contain firearms. The result of the frisk of § 87(2)(b) waistband was that § 87(2)(b) was carrying not a weapon, but rather two phones; Sergeant McCarthy did not know how he determined that § 87(2)(b) had two phones in his pocket but believed he may have either felt them from the outside of his clothing or reached into a pocket and took them out.

Police Officer Edwards' BWC footage shows that Police Officer Edwards frisks § 87(2)(b) jacket pockets, which reveals an unidentified brown item wrapped in plastic, which either Police Officer Edwards or Sergeant McCarthy removes, and a square yellow item (Board Review #06). Shortly after, Sergeant McCarthy is seen bending down near § 87(2)(b) legs, and then placing both of his hands inside both of § 87(2)(b) jacket pockets. Only after Sergeant McCarthy frisks and searches § 87(2)(b) does he begin making the threats described previously, such as "I'll boom you."

Sergeant McCarthy stated, after reviewing the footage, that he was aware Police Officer Edwards had already frisked § 87(2)(b) but was unaware how thoroughly he frisked him. Therefore, though Sergeant McCarthy did not see any bulges on § 87(2)(b) person, he also carefully searched § 87(2)(b) pants and jacket pockets.

Additionally, Lieutenant Siani stated that he ordered either Sergeant McCarthy or Police Officer Edwards to "check" § 87(2)(b) (or his pockets) because his brief frisk did not make him completely confident that § 87(2)(b) was not carrying a weapon. He could not clearly see which officer was interacting with § 87(2)(b) nor exactly what they were doing. However, he prepared a stop report, which indicated that § 87(2)(b) was indeed frisked and searched (Board Review #20).

As stated previously, *People v. De Bour* allows an officer to frisk an individual if the officer reasonably suspects that he is in danger of physical injury by virtue of the detainee being armed (Board Review #08). Patrol Guide Procedure 212-11 permits an officer to enter an individual's pockets "to remove an object that the member felt during a frisk and reasonably suspects is a weapon or dangerous instrument" (Board Review #09).

Not only was Sergeant McCarthy aware Police Officer Edwards had already frisked § 87(2)(b) he also did not observe any bulges himself. Additionally, because § 87(2)(b) did not make threats until after Sergeant McCarthy already frisked and searched him, § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Allegation (M) Abuse of Authority: Police Officer Jeffrey Goris threatened § 87(2)(b) with the use of force.

Allegation (N) Discourtesy: Police Officer Jeffrey Goris spoke discourteously to § 87(2)(b)

§ 87(2)(b)

It is undisputed that while backing away from the officers § 87(2)(b) yelled, "I'll boom you, I'm big crip," among other similar statements. Police Officer Goris then pointed his taser at the front of § 87(2)(b) body for approximately three seconds and said, "Back the fuck up."

Police Officer Goris testified that § 87(2)(b) statements and demeanor were the only factors that made him believe he was a threat to others. He believed § 87(2)(b) statement that he

would “boom” the officers meant that he was threatening to shoot them and therefore may have had a gun on his person. He did not know whether the first group of officers had already searched § 87(2)(b) (for a gun or otherwise), although assumed they had not because of the threats he made. Police Officer Goris did not see anything in § 87(2)(b) pocket that indicated he had a gun because he was focused on watching his hands. Police Officer Goris did not remember whether § 87(2)(b) ever reached into his pocket, but he did not make any motions to indicate he was about to take out a weapon. He believed § 87(2)(b) could have hit any of the other officers, either with his hands or anything that the initial officers missed in the initial search that may have occurred before Police Officer Goris arrived. He also did not know whether § 87(2)(b) stating, “I’m big crip,” was a code to other people in the neighborhood to come to § 87(2)(b) defense and fight the officers. Additionally, as he pointed the taser at § 87(2)(b) Lieutenant Siani told Police Officer Goris to put the taser down.

Lieutenant Siani’s BWC footage shows, at 2:16 into the footage, § 87(2)(b) standing a few feet from and facing Police Officer Goris, whose taser is in his right hand resting at his side (Board Review #04). Lieutenant Siani turns toward Police Officer Goris and yells, “Forget this clown,” and, “Forget him, forget him,” while walking toward Police Officer Goris. Immediately afterward, Police Officer Goris points the taser at § 87(2)(b) for three seconds, and Lieutenant Siani continues to say, “Forget it,” while waving his hand. Several other individuals film and yell at Police Officer Goris.

According to Patrol Guide Procedure 221-08, officers are instructed to use a taser only “against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other person(s) actually present” (Board Review #15). *Active resistance* is defined as “physically evasive movements to defeat a member of the service’s attempt at control...to avoid or prevent being taken into or retained in custody.” *Active aggression* is defined as a “threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent.” The procedure also allows an officer to point and place the laser dot of an activated CEW on a subject in order to attempt to achieve voluntary compliance.

Because none of the officers were apprehending or making physical contact with § 87(2)(b) during the moments before Police Officer Goris pointed the taser, he was not exhibiting active resistance. § 87(2)(b) actions also did not constitute active aggression; though he verbally threatened to harm the officers, he did so while continually backing away from officers, and did not make any motions to indicate he was about to take out a weapon. Police Officer Goris also did not observe anything else that made him believe § 87(2)(b) was armed. Lastly, Police Officer Goris also did not have reason to merely point the laser at § 87(2)(b) as a warning, because no officer was attempting to get § 87(2)(b) to comply to any instruction. Lieutenant Siani’s statement to “forget this guy” and instruction to Police Officer Goris to lower the taser made it abundantly clear that the interaction was effectively over and that officers should have disengaged. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Police Officer Goris testified that he used the word “fuck” to match § 87(2)(b) language and energy and because he felt the profanity would make § 87(2)(b) more likely to comply with the order to “back up.”

As described previously, DCT Case No. 2015-15012 establishes that officers’ use of profanities during stressful street encounters do not constitute misconduct (Board Review #13). Though Police Officer Goris was unjustified in pointing the taser at § 87(2)(b) the interaction was nonetheless

stressful due to § 87(2)(b) screaming threats and the group of individuals yelling and filming the officers. § 87(2)(g)

Allegation (O) Abuse of Authority: Lieutenant Christopher Siani failed to provide § 87(2)(b) with a business card.

§ 87(2)(b) testified that no officer offered him a business card during the incident.

Lieutenant Siani did not remember whether § 87(2)(b) asked any officer for a business card but stated that if he had asked for one, he would have given one to him. He figured that § 87(2)(b) was not interested in getting a business card because of his demeanor at the end of the incident.

Sergeant McCarthy testified that § 87(2)(b) never asked him for a business card, and he did not know if he asked any other officers. Sergeant McCarthy understood that he would have been expected to offer § 87(2)(b) a business card in the circumstances of this incident, but he did not offer him one because § 87(2)(b) was angry and yelling. He believed that even if he had offered § 87(2)(b) a card, he likely would not have accepted it.

None of the BWC footage shows any officer offering § 87(2)(b) a business card (Board Review #04, #06). Thus, the investigation credited § 87(2)(b) account that no officer offered him a business card.

According to NYC Administrative Code 14-174, officers must offer a business card to any individual with which they conduct a law enforcement activity, such as a stop and frisk, at the conclusion of any such activity that does not result in an arrest or summons (Board Review #16).

Because the administrative code does not offer the individual's demeanor as an exception to the business card rule, the Lt. Siani and the officers under his supervision were still required to offer § 87(2)(b) a business card, even if they did not believe he would accept it. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review #17).
- Lieutenant Christopher Siani has been a member-of-service for 23 years and has been a subject in 18 CCRB complaints and 48 allegations, of which two were substantiated in two cases:
 - 200717516 involved a substantiated allegation of a vehicle search. The Board recommended Command Discipline and the NYPD imposed Command Discipline B.
 - 201008648 involved a substantiated allegation of a frisk. The Board recommended Charges and the NYPD imposed Command Discipline B.
 - § 87(2)(g)
- Police Officer Jeffrey Goris has been a member-of-service for seven years and has been a subject in nine CCRB complaints and 16 allegations, none of which were substantiated.

§ 87(2)(g)

- Sergeant Arthur McCarthy has been a member-of-service for 10 years and has been a subject in nine CCRB complaints and 22 allegations, none of which were substantiated.
§ 87(2)(g)
- Police Officer Dwane Edwards has been a member-of-service for 9 years and has been a subject in five CCRB complaints and 13 allegations, none of which were substantiated.
§ 87(2)(g)
- Police Officer Lashonda Porterfield has been a member-of-service for 3 years and has been a subject in one CCRB complaint and 1 allegation, none of which were substantiated.
§ 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation for this case.
- As of January 20, 2021, the NYC Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (Board Review #18).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 2

Investigator: Esme Trontz Inv. Esme Trontz 3/12/21
Signature Print Title & Name Date

Squad Leader: Alexander Opoku-Agyemang IM Alexander Opoku-Agyemang 3/12/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date